

ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PATRICK J. McGUICKIN and CAROL A. JOHNSON,

: 07 Civ. 7042 (WCC)

:  
: Plaintiffs,

:  
: ECF Case

:  
: - against -

:  
: UNITED STATES OF AMERICA,

:  
: STIPULATION AND ORDER OF  
: SETTLEMENT AND DISMISSAL

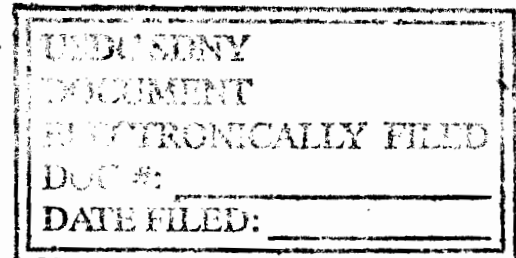
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: Defendant.  
:----- x

IT IS HEREBY STIPULATED AND AGREED, by and between plaintiff Carol A. Johnson ("Johnson") and defendant the United States of America (the "United States") that the above-entitled action be settled and compromised on the following terms and conditions:

1. The above-referenced action is hereby dismissed with prejudice and without costs or disbursements or fees as against any party.

2. In consideration of the promises made by Johnson herein, the United States Postal Service (the "Postal Service") will pay to Johnson the sum of \$12,500 (the "Johnson Settlement Amount") in full and final settlement and satisfaction of this action. It is understood and agreed between Johnson and the United States that the payment of the Johnson Settlement Amount shall be issued, by check, to Johnson and to counsel for Johnson. Johnson understands and agrees that the Postal Service shall issue IRS Forms 1099-MISC to both her and her counsel and shall report to the Internal Revenue Service (the "IRS") the payments of \$12,500 to Johnson and her counsel.

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3. Johnson agrees to accept the Johnson Settlement Amount in full settlement of any and all claims that Johnson, her heirs, successors, executors, administrators or assigns have or may hereafter acquire against the United States, any of the United States' departments or agencies, or any current or former agents, officials, or employees of the United States, relating to the incidents or circumstances giving rise to this action up to and including the effective date of this Stipulation and Order.

4. This Stipulation and Order shall not constitute an admission of liability or fault on the part of the United States, any of the United States' departments or agencies; or any current or former agents, officials, or employees of the United States.

5. Johnson represents that she has not assigned any of her claims, nor does any lien exist upon the settlement proceeds. However, if Johnson has assigned any claim or if any lien exists upon the settlement proceeds, Johnson will indemnify and hold harmless the United States, any of the United States' departments or agencies, and any current or former agents, officials, or employees of the United States, from any and all claims, causes of action, rights or subrogated interests arising from the assignment of claims or liens upon the settlement proceeds, and this Stipulation and Order constitutes a written agreement to that effect.


6. Payment of the Settlement Amount shall be made by the Postal Service as soon as practicable after the execution by the parties and entry by the Court of this stipulation and order.

7. Settlement of this action is without costs or interest and is inclusive of any claim for attorneys' fees, costs or other litigation expenses.

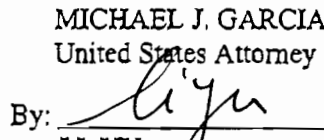
8. The parties agree that no representation or warranty has been made as to the tax consequences of the payment of the Johnson Settlement Amount. Johnson shall accept payment of the Johnson Settlement Amount with the understanding that this entire lump sum will be reported to the IRS by the Postal Service as set forth above in paragraph "2," and that question of tax liability, if any, as a result of such payment is a matter to be resolved solely between the Johnson and the IRS. The Postal Service takes no position as to the tax treatment of the payment of the Johnson Settlement Amount. Johnson represents and warrants that she shall assume all responsibility for, and shall protect, indemnify, defend, and hold harmless the United States, any of the United States' departments or agencies; and any current or former agents, officials, or employees of the United States, from and against any and all claims, losses, damages, liability, suits, actions, judgments, costs, penalties, and expense resulting from any liability or claim of liability for any amounts assessed by or due to any federal, state, or local government or agency thereof, including, but not limited to, federal, state, and local taxes owed in connection with the payment to Johnson and her counsel.

9. Johnson and the United States understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.


Dated: New York, New York  
August 28, 2008

By:   
ANTHONY J. SCARCELLA, Esq.  
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Counsel for Johnson

Dated: New York, New York  
August 28, 2008

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Counsel for the United States

SO ORDERED:

  
HONORABLE WILLIAM C. CONNER  
SR. UNITED STATES DISTRICT JUDGE

Dated: White Plains, NY  
Sept. 5, 2008